

DOCKET SECTION

LabOne, et al. T-2

BEFORE THE
POSTAL RATE COMMISSION
WASHINGTON, D.C. 20268

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Postal Rate and Fee Changes, 1997

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Docket No. R97-1

DIRECT TESTIMONY

OF

GILBERT P. BOURK III
Vice President and General Counsel
Osborn Laboratories, Inc.

ON BEHALF OF

LabOne, Inc.
Osborn Laboratories, Inc.
Clinical Reference Laboratory, Inc.

Communications with respect to this document may be sent to:

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Counsel for LabOne, Inc.,
Osborn Laboratories, Inc.,
Clinical Reference Laboratory, Inc.

Due Date: February 20, 1998

DIRECT TESTIONY

OF

GILBERT P. BOURK III

My name is Gilbert P. Bourk III. I am Vice President and General Counsel of Osborn Laboratories, Inc., in Olathe, Kansas. I have been with the laboratory for 9 ½ years. My primary responsibility is to manage and direct the legal affairs of Osborn Laboratories. Included in my responsibilities is regulatory compliance. In 1989 I was asked to review packaging requirements for clinical specimen collection kits for both the private courier industry and the United States Postal Service (USPS). I have been involved with the USPS ever since.

This testimony is in opposition to the USPS' proposed \$.50 per piece surcharge for Hazardous Medical material (HMM) to be levied on our clinical specimen collection kits. Osborn Laboratories has enjoyed a fine working relationship with the Shawnee Mission, Kansas Branch of the USPS. I have worked with a number of local sales representatives and management personnel for the last 9 years. I have traveled to Washington, D.C. to meet with Bob Adams at the USPS headquarters to discuss packaging requirements for clinical specimens. I have visited our local sorting center and postage due dock to view the handling of our packages to understand how the USPS handles our volume of business.

Osborn Laboratories analyzes blood, urine and saliva specimens for the insurance industry. In reviewing a potential insured in the underwriting process, an insurance company attempts to understand the risks of insuring persons. Information

1 pertaining to the health or condition of a potential insured is a key element in assessing
2 the risks of insuring certain persons, and we provide that information to insurance
3 companies by testing specimens from potential insureds. We manufacture the specimen
4 collection kits used to transport specimens to our laboratory. We receive thousands of
5 specimen collection kits every day from across the United States. The specimen
6 collection kits are delivered to us by private courier and the USPS. Our inbound
7 shipments fully comply with all HMM packaging requirements of the Domestic Mail
8 Manual. As evidence of our compliance, I have attached a few recent packaging
9 approval letters from our regional Rates and Classification Service Center.

10 Our inbound packages are delivered via first class business reply. Under this
11 approach, each first class business reply piece is to be weighed, and the applicable
12 charge assessed to us (the shipper). The fees are an accumulation of classification
13 charges (e.g., small per piece charges and/or fees for business reply, an accounting fee,
14 a handling fee, dimension charges, etc.) and weight charges (e.g., a fee for the first
15 ounce, and each ounce thereafter). In our case, due to our extremely high volume, the
16 USPS has developed an average pound rate. Several years ago, the USPS informed us
17 that it is not cost effective for them to weigh each piece. The USPS has told me this
18 process allows them to handle our volume much quicker. In this process, the USPS
19 computes a new average pound rate every month. This is accomplished with the USPS
20 taking what they feel is a representative sample of the different types of inbound
21 specimen collection kits (we have several different types of specimen collection kits),
22 comprising one pound. Then, the USPS takes each individual piece in the one pound,
23 and computes the first class business reply rate (identified above) for each item, and

1 adds them all together to get an average pound rate. Our most current pound rate is
2 \$8.75 per pound.

3 In processing our volume of inbound packages at our local Post Office, the
4 USPS uses the average pound rate to process our business in bulk. For example, on
5 any given day our first class business reply will be accumulated by the USPS in large
6 bins or hampers, and weighed in total. The weight of the hampers are deducted and the
7 pound rate applied to the remaining weight.

8 If the surcharge was applied to the processing of our volumes of packages, the
9 USPS would not be able to continue its economies of utilizing an average pound rate.
10 The surcharge, as currently proposed, would be levied on a per piece basis. At the
11 present time our first class business reply is all processed in bulk; i.e., we pay on
12 weight and not on a per piece basis. If the per piece surcharge was implemented, the
13 USPS would have to change its present procedure to count each piece.

14 I have read the testimony of John V. Currie on behalf of the USPS. There are
15 several aspects of Mr. Currie's testimony which are misconstrued, or simply not
16 correct. My initial reaction to Mr. Currie's testimony was that he seemed to provide
17 conclusionary comments without specific data to support his findings, and in some
18 respects I feel he must have been proceeding on stale or old information. He seems to
19 indicate a situation of constant danger posed to USPS personnel as the result of leaking
20 packaging (Currie, page 9). While there may have been limited leakage in some
21 packaging 10 years ago (I'm simply relying on memory for this, as I have no data on
22 leakage 10 years ago), there is no evidence of leakage in today's environment. Our
23 local Post Office maintains a leaker log to track leaking packages in our local

1 processing center, and I have no knowledge that our local representatives have
2 contacted us regarding leaking packages caused by inadequate packaging.

3 Mr. Currie stated in his testimony that private couriers impose a surcharge “on
4 commodities that are regulated as hazardous materials”, and also charge a lab pack fee
5 (Currie, page 12). That statement is not correct. We currently utilize Airborne to
6 bring us thousands of packages per day. Airborne does not charge us a hazardous
7 material charge or a lab pack fee. Prior to our use of Airborne, we contracted with
8 FedEx to bring packages to us. FedEx did not impose a hazardous material charge or
9 lab pack fee.

10 The proposed surcharge is not acceptable, and would have a material adverse
11 effect on us. According to our local USPS representative, our estimated per piece rate,
12 based on our current pound rate is \$.88. Adding the surcharge to our individual pieces,
13 would result in a 57% increase in cost to us – which is not acceptable.

RATES AND CLASSIFICATION SERVICE CENTER



February 5, 1998

Gib Bourk
Osborn Laboratories
14901 W 117th St.
Olathe, KS 66062-9307

Dear Mr. Bourk:

This is in response to your request for review and approval of the packaging for the ORF oral fluid collection kit to be used in the mails.

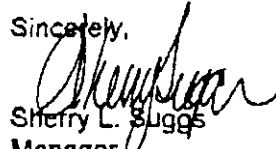
The kit is provided for insurance companies to submit saliva specimens for HIV screening. It consists of the EpiScreen HIV-1 Oral Specimen Collection Device by Eptope Inc., an EpiScreen instruction pamphlet, a specimen test order form which includes a page of instructions for preparing the package for mailing, a 3 1/4" by 6 1/8" piece of absorbent material, and an 8 1/2" by 11" white envelope containing two sealable pockets.

The collection device consists of a plastic stick with a swab on the end which, after use, is placed in a plastic tube containing a small amount of blue stabilizing fluid. The tube is sealed with a friction stopper that has two sealing rings on the cap. The oral specimen tube and absorbent material are placed in the back pocket of the envelope and the documentation is placed in the front pocket. The envelope is sealed by removing the two protective tapes to allow each pocket to be sealed separately when the flap on the envelope is closed properly.

Based on our review, this specimen collection kit meets the basic requirements for shipment via the Postal Service and is approved. Please be aware that full responsibility rests with the mailer for any violation of Law, Title 18 United States Code, section 1716, which may result from placing kits containing clinical specimens in the mail.

If you have any questions, please contact Chuck Steinau at 630-978-4312.

Sincerely,



Sherry L. Suggs
Manager

cc: Manager, Marketing, Mid-America District
Manager, Business Mail Entry, Mid-America District
District Safety Manager, Mid-America District
Postmaster, Shawnee Mission, KS 66202-9998
All RCSCs
RCSC30:CSS:C023:508670

RATES AND CLASSIFICATION SERVICE CENTER



February 6, 1998

Gib Bourk
Osborn Laboratories
14901 W 117th St.
Olathe, KS 66062-9307

Dear Mr. Bourk:

This is in response to your request for review and approval of the packaging for the URN urine specimen collection kit to be used in the mails.

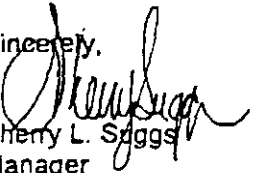
The kit is provided for insurance companies to submit urine specimens for HIV screening. It consists of a specimen cup with thermometer, two 12 milliliter vials with screw-on caps (one with yellow label and cap, one with blue label and cap), a pamphlet titled *Urine Testing for Antibodies to HIV-1*, a specimen test order form which includes a page of instructions for preparing the package for mailing, a 3 1/4" by 6 1/8" piece of absorbent material, and an 8 7/8" by 10 7/8" white envelope containing two sealable pockets.

The kit, when returned through the mail, consists of the envelope with the two plastic vials, absorbent material and order form enclosed. The vials, with the caps securely screwed on, and absorbent material are placed in the back pocket of the envelope and the documentation is placed in the front pocket. The envelope is sealed by removing the two protective tapes to allow each pocket to be sealed separately when the flap on the envelope is properly closed.

Based on our review, this specimen collection kit meets the basic requirements for shipment via the Postal Service and is approved. Please be aware that full responsibility rests with the mailer for any violation of Law, Title 18 United States Code, section 1716, which may result from placing kits containing clinical specimens in the mail.

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Sincerely,


Sherry L. Soggs
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Manager, Business Mail Entry, Mid-America District
District Safety Manager, Mid-America District
Postmaster, Shawnee Mission, KS 66202-9998
All RCSCs
RCSC30:CSS:C023:508667

CERTIFICATE OF SERVICE

I hereby certify that I have this date served the instant document on all participants of record in this proceeding in accordance with Section 12 of the Rules of Practice.

Date: February 20, 1998.



R. Dennis Wright